

Excerpts
Planning Commission Minutes
April 13, 2005

Application No. PD-16-05, Villa Development, LLC: Request to amend the York County Zoning Map by reclassifying approximately 15.3 acres located on the north side of George Washington Memorial Highway (Route 17) approximately 1,240 feet north of its intersection with Cook Road (Route 704) from LB (Limited Business) to PD (Planned Development) subject to voluntarily proffered conditions. The property is bounded by Route 17 to the south, Falcon Road (Route 1254) to the west and north, and Cook Road to the east. Pursuant to Section 24.1-361(c)(2) of the York County Zoning Ordinance, the applicant proposes to develop a 76-unit development of age-restricted (62 and older) quadruplex homes in accordance with the "Senior Housing – Independent Living" definition and performance standards of the Zoning Ordinance. The properties, located at 8926, 8934, and 9000 George Washington Memorial Highway and 401 and 409 Cook Road, are further identified as Assessor's Parcel Nos. 24-80-4, 24-80-5, 24-80-6, 24-23, and 24-25. This area is designated for Limited Business development in the Comprehensive Plan.

Timothy C. Cross, AICP, Principal Planner, presented a summary of the staff report dated April 4, 2005 in which the staff recommended approval. Mr. Cross noted the development as proposed would be operated as age restricted senior housing.

Mr. Ptasznik inquired about a discrepancy between the recommended 50-foot greenbelt buffer and the submitted drawing. **Mr. Cross** clarified that the 50-foot requirement buffer is recommended and stated the artist's rendering was drawn before the 50-foot greenbelt was recommended.

Mr. Hamilton asked if the current drainage infrastructure could support this development without additional CIP funds.

Mr. Cross replied the County's stormwater management engineers have indicated the proposed stormwater pond may have to be relocated but the development's impact on the County's stormwater system is not of great concern to them.

Mr. Hamilton hoped people were aware of the Friday night high school football games [at York High School]. **Mr. Cross** said the recommended buffer might provide noise attenuation.

Vice Chair Ptasznik opened the public hearing.

Mr. Paul Garman, 109 Chisman Point Road, Seaford, spoke as the agent for Mid Atlantic Commercial. Because the applicant has the benefit of developing two successful senior housing projects in York County, **Mr. Garman** said, the proposed project is expected to be its best yet. The applicant strives to build what the seniors have indicated they want, he continued, and while the property in question could potentially have been built as office/retail, senior apartments, or some other use, the applicant believes the requested project is the most practical in terms of serving the needs of the senior population. **Mr. Garman** displayed graphics of fiscal impact comparisons indicating the proposal would better serve the County fiscally than would a retail facility. **Mr.**

Garman predicted a sales price of \$225,000 or more per unit. He noted the proximity of Riverwalk Landing, attractive landscaping for the proposed community, and an attractive entry at Cook Road and Route 17 as desirable amenities.

Mr. Walter Carroll, 111 Pond View, thanked the applicant for bringing that type of development to the County. However, the applicant, who also developed Rainbrook Villas, appears unable to keep up with maintenance after units are built. While some Rainbrook Villas residents have waited two years or longer for repairs, he said, the applicant has developed two more senior communities and now proposes a third. **Mr. Carroll** believes the developer/applicant has good intentions but may have too many projects going at one time. Before they start another, they should live up to their promise of maintenance-free living. He recommended against approval.

Ms. Edna Haggerty, 403 Timberline Loop, said there are homeowners at Rainbrook Villas who have waited up to five years for corrections to erosion problems and other maintenance. The County has cooperated to have the work completed and some residents have formed work parties. At the present time residents are shoring up a ditch with large concrete stones to keep one of the units from being undermined, according to **Ms. Haggerty**. She believes Rainbrook Villas was not built according to Code but the developer has not resolved the problems. Meanwhile, she said, the developer's other senior communities are on schedule. She asked the Commission to postpone or table a formal recommendation rather than deny it, because she believes approval should be contingent upon the satisfactory completion of critical work needed at Rainbrook Villas.

Ms. Haggerty submitted to the recorder an unsigned five-page note left in her paper box on April 12, 2005, which **Ms. Haggerty** said *"is a true picture of what Rainbrook is, and has been experiencing for five years...."* It is attached to the Minutes of Record.

Ms. Patricia H. Ruddle, 231 Rainbrook Way, did not believe the applicant had lived up to the conditions imposed under Application PD-10-98 regarding grading, drainage, and street conditions in Rainbrook Villas. Seniors have been affected emotionally and financially, she said, and residents aged 55 to 80 have formed work parties. It has not been carefree living, she said. **Ms. Ruddle** recommended postponement of approval until the conditions of approval for Rainbrook Villas and Shady Banks developments have been met.

Mr. Joseph F. Haggerty, 403 Timberline Loop, said he moved into his home at Rainbrook Villas in September 2001. He spoke of cracked cement on his driveway and over ½ inch of settling on one half of his garage floor. He said the garage floor was dug up and then water was trapped underneath, resulting in crumbling asphalt that is tracked into his home or washes down the gutter. He said his roof and firewall are so close that heat cannot escape because "experienced craftsmen were not hired." Calls to the developer have not helped. **Mr. Haggerty** recommended postponement of approval.

Vice Chair Ptasznik explained the charter of the Commission is to review proper land use. He said he had spoken with County officials about problems at Rainbrook and is confident they are working to get them resolved. Problems at a particular development should not influence the

mission of the Planning Commission regarding proper land use. **Mr. Ptasznik** invited other comments that do not repeat or reflect what has already been said.

Ms. Alice Wheless, 226 Rainbrook Way, recommended deferring a recommendation.

Mr. William A. Ambrose, 3802 McTyres Cove Road, Midlothian, Virginia, was unclear how the project would affect school enrollment, as mentioned in Mr. Cross's presentation, since no children would live in the proposed community. He believed the residents would support businesses on Route 17. **Mr. William Ambrose** supported approval.

Mr. Dick Ambrose, 205 Marl Ravine Road, said he is a co-owner of a portion of the property in question for development. He sympathized with the situation of some of the earlier speakers. He suggested that the County building inspectors be extra vigilant during their inspections. **Mr. Ambrose** believed the applicant is proposing a high-caliber project in a neighborhood that is in desperate need of improvement. Many elderly people would benefit from this project and those in Marlbank and Edgehill would be in the same area. The development would increase the steady, year-around customer base for Riverwalk Landing and other Yorktown businesses, he said, and recommended approval.

Mr. Timothy Cross addressed Mr. William Ambrose's comment regarding school enrollment. He clarified how the proposed development could have an indirect impact on school enrollment; for instance, if a couple sells a single-family home into York County to move into the new senior community and the buyers of their home move with school-age children. According to the applicants, 38 percent of Rainbrook Villas and Shady Banks buyers were York County residents.

Mr. Cross clarified, in response to the applicant's comments, that senior apartments would be permitted on the subject property not as a matter of right but upon the approval of a Special Use Permit. This gives the County a great deal of control over any senior apartments on the property.

There was some discussion about whether the proposed development would increase the projected County target population of 80,000. Mr. Cross explained the declining household size resulting in part from the aging population was already accounted for in the projected 80,000-81,000 "buildout." Therefore, approval of the application will increase the build-out population albeit marginally.

Mr. Walter Carroll recommended the proposed mulch trail around the drainage pond be changed to asphalt or some other hard surface. Mulch trails are expensive and difficult to maintain, he said, and the elderly find them harder to walk on than asphalt. **Mr. Cross** thought that was a valid point, and **Mr. Ptasznik** agreed, noting that other walking trails in the development will be paved.

Mr. Joseph Ambrose pointed out that planned development units are privately owned and neighbors could cooperate to get needed repairs or improvements, not depend on the government. He did not think a recommendation should be delayed.

Ms. Rhonda Smith, 316 Cook Road, said she had met with representatives of Villa Development. She would prefer this type of development to industrial development, but prefers not to have anything developed on the subject site. Ms. Smith mentioned York High School (YHS) band practices, frequency of field use, and noisy motorcycles on Cook Road -- particularly on Saturdays - - as potential nuisances to a residential community. She would prefer a wider buffer between the proposed development and Cook Road and would prefer the main entrance to the development be from Cook Road rather than Falcon Road.

Mr. Willie Smith, 316 Cook Road, said traffic is a real concern for him. He further questioned the proposed "senior citizen" use if only one resident must be 62 years old.

Ms. Melissa Kline, 402 Cook Road, shared others' concerns about traffic and she thought the lights from Zook Field may become a nuisance to residents. She did not think the neighborhood was conducive to a senior citizen community.

Mr. Daniel Kline, 402 Cook Road, mentioned flooding that occurs after heavy rain and the possibility that more development would create more runoff into existing yards. Tree-clearing would eliminate some existing buffer. Individual homeowners have been working on a neighborhood facelift, he said, but it takes time. He did not think the proposed development would blend with the existing community.

Mr. Cross noted the application had proffered a black picket fence with brick columns to enhance the buffer zone along Cook Rod between the development and the existing community and road network.

Seeing no others who wished to speak, **Vice Chair Ptasznik** closed the public hearing.

Mr. Ptasznik thanked those who attended the public hearing and shared their views. He noted that the property under consideration, because it is near the Yorktown historic area and in the Tourist Corridor Management Overlay District, is prime for quality development. He believed that section of Route 17 would eventually be widened which would alleviate some of the immediate traffic considerations. The proposal for entering via Falcon Road instead of Route 17, he said, was probably driven by safety issues. **Mr. Ptasznik** offered to speak with Sheriff Danny Diggs about speeding on Cook Road. The County is aware of the drainage problems on Cook Road, he said, and solving them will become a top priority, new regulations having been adopted.

Mr. Barba said drainage is a problem and the development is not consistent with the Comprehensive Plan. However, it offers an opportunity for an attractive age-restricted community and Route 17 is a gateway to Yorktown, Riverwalk Landing, and other destinations important to seniors. He believed rezoning for this type of land use would be sensible.

Mr. Hamilton thought the proposed development would be a good use of the land, but still was concerned about drainage issues.

Ms. Conner was distressed to learn about the problems at Rainbrook Villas. While it is not the purpose of the Commission to deal with construction issues, she acknowledged its mission to make sound zoning recommendations. The development appears to be a good use of the property and should have limited impact on Route 17 traffic and a low impact on schools. **Ms. Conner** suggested that **Mr. Garman** help the Rainbrook Villas residents resolve their problems with the developer as soon as possible, before any more development is undertaken. She supported approval because it is a proper use of the property.

Mr. Staton thought the proposal would be an excellent use of the land, would considerably improve the area, and favored approval.

Mr. Hamilton moved adoption of proposed Resolution PC05-18(R-2), recommending revision of Condition No. 7, Proffered Conditions, to construct the walking path with a hard surface, such as asphalt, instead of mulch.

Following the vote, **Mr. Garman** promised that the developer will make it a priority to complete all of the work it is responsible for at Rainbrook Villas. He said the developer works closely with the homeowners' association and urged the residents to cooperate with their homeowners' association.

PC05-18(R-2)

On motion of Mr. Hamilton, which carried 5:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A PLANNED DEVELOPMENT OF 76 QUADRUPLUX UNITS IN ACCORDANCE WITH THE SENIOR HOUSING-INDEPENDENT LIVING DEFINITION AND PERFORMANCES STANDARDS OF THE YORK COUNTY ZONING ORDINANCE

WHEREAS, Villa Development, LLC has submitted Application No. PD-16-05 which requests to amend the York County Zoning Map by reclassifying approximately 15.3 acres located on the north side of George Washington Memorial Highway (Route 17) approximately 1,240 feet north of its intersection with Cook Road (Route 704) from LB (Limited Business) to PD (Planned Development) subject to voluntarily proffered conditions. The property is bounded by Route 17 to the south, Falcon Road (Route 1254) to the west and north, and Cook Road to the east. Pursuant to Section 24.1-361(c)(2) of the York County Zoning Ordinance, the applicant proposes to develop a 76-unit development of age-restricted (62 and older) quadruplex homes in accordance with the "Senior Housing - Independent Living" definition and performance standards of the Zoning Ordinance. The properties, located at 8926, 8934, and 9000 George Washington Memorial Highway and 401 and 498 Cook Road, are further identified as Assessor's Parcel Nos. 24-80-4, 24-80-5, 24-80-6, 24-23, and 24-25 (GPIN# Q09a-1540-2704, Q09a-1459-2762, Q09a-1399-3125, Q09a-1667-3097, and Q09a-1611-3208);

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 13th day of April, 2005, that Application No. PD-16-05 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from LB (Limited Business) to PD (Planned Development) approximately 15.3 acres located at 8926, 8934, and 9000 George Washington Memorial Highway and 401 and 498 Cook Road, further identified as Assessor's Parcel Nos. 24-80-4, 24-80-5, 24-80-6, 24-23, and 24-25 (GPIN# Q09a-1540-2704, Q09a-1459-2762, Q09a-1399-3125, Q09a-1667-3097, and Q09a-1611-3208), subject to the following conditions:

1 Age Restriction

This Planned Development shall be developed and operated as age-restricted senior housing in accordance with the definition of Senior Housing-Independent Living Facility set forth in Section 24.1-104 of the York County Zoning Ordinance.

2 General Layout, Design, and Density

- a) A site plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Service, Division of Development and Compliance prior to the commencement of any land clearing or construction activities on the site. Said site plan shall be in substantial conformance with the conceptual plan titled "Master Plan: Villas at Yorktown, A Planned Community," prepared by C. E. Newbaker Surveying & Planning, Inc. and dated January 27, 2005, except as modified herein. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as submitted or amended herein shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance.
- b) The layout and design of this development shall be in conformance with the performance standards for senior housing set forth in Section 24.1-411 of the York County Zoning Ordinance, except as modified herein.
- c) The maximum number of residential units shall be 76.
- d) Street trees at least 1½ inch in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals along the interior road in the development. Street trees at least 1½ inch in diameter shall be provided (or credited for existing trees) at no less than forty-foot (40') intervals in the median of the boulevard-type entrance on Hampton Highway.

- e) Freestanding signage shall be limited to a single monument-type community identification sign along Falcon Road measuring no greater than 24 square feet in area and six feet (6') in height.

3 Streets and Circulation

- a) Roadway design and construction shall be in substantial conformance with the Development Plan. The design and construction of all streets shall adhere to the street and roadway standards established for public streets by the County and the Virginia Department of Transportation (VDOT). The applicant shall bear responsibility for installing all roadway improvements.
- b) All streets shall be of a curb and gutter design; roll-top curb shall be permissible throughout the development.
- c) In order to provide for safe and convenient pedestrian circulation, the project shall include a four-foot (4') wide sidewalk as shown on the concept plan.
- d) Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
- e) A right turn radius consistent with the standards of the Virginia Department of Transportation (VDOT) shall be constructed along Falcon Road (Route 1254) at the entrance to the development.

4 Utilities and Drainage

- a) Public sanitary sewer service shall serve this development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.
- b) A public water supply and fire protection system shall serve the development, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in accordance with all applicable regulations and specifications. The applicant shall grant to the County or the City of Newport News all easements deemed necessary by the County for maintenance of such water lines.
- c) The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system

shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.

- d) The homeowners' association shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

5 Open Space and Recreation

- a) The location and arrangement of open space shall be generally as depicted on the plan titled "Master Plan: Villas at Yorktown, A Planned Community," prepared by C. E. Newbaker Surveying & Planning, Inc. and dated January 27, 2005.
- b) A minimum of 200 square feet of common active/passive outdoor recreation area per dwelling unit shall be provided.
- c) The walking trail surrounding the proposed stormwater pond as depicted on the referenced concept plan shall be constructed of an asphalt surface.
- d) The recreation area and facilities designated shall be developed and available for use on or before the occupancy of the twenty-fourth (24th) unit or by the end of the fifth (5th) year from the start of construction, whichever occurs first.
- e) Landscape buffers no less than fifty feet (50') in width shall be provided along the entire Route 17 and Cook Road frontages of the property. Said buffers shall be left in an undisturbed natural state and supplemented with additional landscaping where clearing has already taken place. This shall not be interpreted to preclude 1) the planting of additional trees, shrubs, or groundcovers, 2) the construction of perimeter fencing and lighting fixtures, 3) limited clearing of underbrush, nuisance plants, and dead or diseased plants and trees, and 4) the perpendicular installation of utilities necessary to serve the development. Any sight line clearing shall be shown on the landscape plan for the site which shall include both plan and perspective views.
- f) Temporary tree protection barriers shall be installed prior to clearing or construction to protect the roots of any existing tree within any required perimeter buffer area even if it requires additional construction offset on property that is not within the buffer.
- g) The location and manner of development for the recreation area shall be fully disclosed in plain language to all home purchasers in this development prior to closing.
- h) All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.
- i) All recreational services, facilities, and equipment shall be subject to approval by the Division of Parks and Recreation for their consistency with the applicant's proffered conditions and recreational requirements as listed in the Planned Development regulations in the Zoning Ordinance.

6 Environment

- a) A Natural Resources Inventory, prepared in accordance with the requirements set forth in Section 24.1-372(d) of the Zoning Ordinance, shall be submitted for review and approval concurrent with the site plan submission.
- b) Prior to final plan approval, the applicant shall obtain all wetland permits required by federal and state regulations and submit copies of these permits, or evidence that such permits are unnecessary, to the Zoning Administrator.

7 Proffered Conditions

The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement titled "Proposed Proffers by Owners for Application for Property of the Villas at Yorktown, L.L.C. and Villa Development, L.L.C.," signed by Cowles M. Spender and dated January 31, 2005, except as modified herein.

8 Restrictive Covenants

Prior to final plan approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497 of the Zoning Ordinance.

BE IT FURTHER RESOLVED by the Planning Commission that, contingent on the Board of Supervisors' approval of Application No. ZT-92-05 as it pertains to Section 24.1-361(c)(2) of the York County Zoning Ordinance, it does hereby recommend that approval of Application No. PD-16-05 subject to the following conditions in addition to those set forth above:

1. Notwithstanding the provisions of Section 24.1-411(e) of the Zoning Ordinance, the fifty-foot (50') landscaped perimeter buffer around the development shall be reduced to no less than twenty-five feet (25') in width along the subject property's western property boundary adjacent to Falcon Road and along the eastern property boundary adjacent to the parcels located at 8918 George Washington Memorial Highway and 307 Cook Road, further identified as Assessor's Parcel Nos. 24-80-3 and 24-22A respectively.
2. Notwithstanding the provisions of Section 24.1-411(f) of the Zoning Ordinance, the normally required twenty-five feet (25') of open landscaped space surrounding each building may be reduced provided, however, that no two building within the project shall be located closer to one another than thirty feet (30') and that the minimum building setback from internal streets shall be twenty feet (20').

For the Haggerty's -- (Some ideas to support your concerns)

Thank you for placing the information in our paperbox recently regarding the Public Hearing scheduled on April 13. We can only assume that you will lead in communicating to the York Planning commission various concerns with this additional project that Villa Developments plans to undertake on the Cooks Road effort. I would venture to say that if the county Board of Supervisors, along with the counties' building code compliance office and all prospective buyers of Shady Banks and Oxford Run (in Poquoson) had any clear idea (at this very moment) of the ongoing struggle between Rainbrook and Villa Development over resolving many issues in construction defects, code concerns and the developers original management of the construction of the 41 Rainbrook four plex condos, that the county (and prospective buyers) might wave a RED flag. The RED flag has to be waved on Cooks Road until such time Villa makes good on Rainbrook's defects and refunds the repair, legal and engineering study expenses that Rainbrook has endured to slowly overcome construction defects. At the same time construction operations should cease on Shadybank to determine (while they still can be reviewed during construction) if they too will inherit the Rainbrook construction defects and code compliance problems. The county must intercede with a complete review of Villas construction techniques at Rainbrook for roof ventilation, finished exterior grade/drainage, and most important, the mitigation of moisture into the dwellings. The major problems are various roof leaks due to poor shingle installation, faulty plumbing vent boots, poor design and installation of roof (top) ridge vents for adequate attic and garage ventilation, poor siding installation on and around window penetrations, and laundry dryer vent clog ups due to poorly designed pipe routing. While many of the first

28 buildings in Rainbrook have some type of suspected roof or window water penetration defect(s) [visually witnessed when the Rainbrook Board took fiduciary responsibility to fix at least half dozen at last count], several of the latter constructed units (leading up to building 41) had water penetration into the foundations that made the units uninhabitable shortly after residents moved in due to water soaked carpeting. One resident suffered undue mold, mildew and odor as the developer failed to oversee finished grade and drainage away from buildings. Their initial remedy was to spray bleach on the interior stained and mildewed wall surfaces without realizing the moisture penetration would continue to persist until appropriate re-grading was accomplished. Today, several buildings remain as candidates for moisture intrusion due to improper exterior grading and finish at the foundations.

All in all, the marketing slogan the developer advertised in their sales brochures and on their office trailer on US 17 as CAREFREE LIVING is everything to the contrary. Granted that construction defects in a new dwellings is not uncommon, one cannot imagine how a real senior citizen facility (as proposed at Cooks Road) would endure and manage such defects if it had been the first project undertaken by Villa in the county. Also, a query with Villa as to why all the completed dwelling in Poquoson haven't been sold and occupied should be up for discussion with Poquoson city officials. From what we've seen, Rainbrook Villa (alone) is inferior to other duplicate projects in Chester Va and in several locations that have been visited in Ohio.

(As we are all familiar), the Rainbrook Board contracted a forensic engineer a year ago to investigate and produce an engineering report on the builders end product as

handed over from Villa to the Rainbrook HOA in the summer of 2003. The investigation was prompted by suspect construction code violations. The Board of Directors and a small committee of owners (along with fee for rendered service support from the Rainbrook Atty and forensic building engineer) are currently attempting to negotiate with Villa (for the 164 owners of Rainbrook Villas) the defect issues and repairs as result of the engineering report that was available last summer, 2004. Not having seen the report (and I would guess to maintain its ability and integrity to enter as court evidence for Rainbrook), one can imagine the issues must be of significant magnitude to support litigation if it occurs. However, from what is understood at this point, on one track is the Rainbrook Board attempting to speed up the contractor's action to make good on the defects and compliance issues in the report; as a 5 year window for Rainbrook to file a litigation suit will close this September as was conveyed recently by the Board. On the other track is Villa Development's repair effort which is less than progressive to run out the litigation filing clock. Further, Villa has continued to change its warranty managers and repair/office staff.....thus any continuity and overlap of work scheduled and or accomplished, is generally lost in the shuffle of their less than skilled employees and subcontractors. Many neighbors still have 45 day defect items from dwellings that have now been occupied for 4.5 years that haven't been adequately addressed. Some repairs of those 45 day defects remain open and unacceptable.....in one case, one exterior repair of the original asphalt driveways to a residence has been completely dugout and repaved at least two times with drainage only made worse (each time) rather than corrected. Fortunately, Villa has eaten the cost to the count of three times on this one driveway. There have been other driveways that have been replaced due to inadequate drainage with

the remedies at best questionable. Originally, Villa promised and sold that each building would have lawn irrigation. Rather, the only existing system was installed at the Clubhouse and front entry area and it quit working in 2002. The Board has since spent over \$7000 to repair and put it back into service.

To save our physical community, to date, Rainbrook Villas HOA has spent considerable capital for: 1) legal consultation and meetings with the forensic engineer; 2) the forensic engineering report for 41 buildings; 3) an additional installation investigation and report on exterior roofing and interior firewall integrity and last; 4) residents succumbed to a Jan 2005 assessments at a tune of _____ % increase for the replenishment of the HOA monetary repair reserves used to make current and unexpected repairs. The developer still owes money back to the reserve that was diverted (by him as the declarant) to other expenses to include the bi-monthly York Sewer Maintenance fee as the early units were sold. Rather than having the new resident/owner pick up and pay the bi-monthly York Co Sewer Maintenance fee, the developer chose to pay it from association reserves he controlled as the declarant. This alone should have been included in the monthly assessments and passed to the residents when they took possession of their unit. This "fuzzy math" was discovered when the Rainbrook Board paid for another re-audit of the declarant's books after taking control of the association in the summer of 2003. Further, the original assessments (without the York Sewer fee) were too small to adequately cover the expenses.....rather the frugal assessments helped to entice buyers in the sell of units. However, the recent HOA assessment increase now adds money to begin repairs by a Rainbrook hired independent contractor of the first 28 units that have water penetrations around various windows and through roofs. In August

2004, one unit alone had a complete exterior wall (including interior sheetrock), rebuilt from the foundation to the roof line to eliminate water damaged and weakened exterior wall studs. Had the developer offered a construction warranty package to take affect after the first year, (as building contractors customarily offer in new construction) then Rainbrook would have had a course to fall back on for unexpected repair corrections to remedy improper and poor construction techniques.

In conclusion, Rainbrook has been anything but CAREFREE LIVING. Yes, we are all for this type of living arrangement in York Co. as was envisioned and installed at Rainbrook Villas, but the developer should not undertake any more of these projects as noted for the reasons above. The construction bond held by the county should remain frozen until the construction and code compliance issues with Rainbrook Villas are solved. Therefore, the Planning Commission should not recommend the Cooks Road project to proceed forward.

YORK Co. PLANNING COMMISSIONERS

THIS WAS LEFT IN OUR PAPER BOX - UNSIGNED.
IT IS A TRUE PICTURE OF WHAT RAINBROOK IS, AND
HAS BEEN EXPERIENCING FOR 5 YEARS TO THE PRESENT
TIME.

Date received: April 13, 2005

THE HAGERTY'S
EDNA + JOE
403 Timberline Loop
Rainbrook Villas
Yorktown, Va. 23692